

Legislative Audit Division

State of Montana



Report to the Legislature

December 1998

Financial-Compliance Audit For the Two Fiscal Years Ended June 30, 1998

STATE DOCUMENTS COLLECTION

Judicial Branch

MONTANA STATE LIBRARY
1515 N. 6th / N.E.
HELENA, MONTANA 59602

This report contains four recommendations for improvement in the branch's operations. Items addressed in the report include:

- ▶ Reimbursing the General Fund \$262,156 related to appropriations for the Appellate Defender.
- ▶ Reimbursing the General Fund \$13,746 for payments made related to judges' retirement contributions.
- ▶ Transfer \$20,956 of fees deposited in the State Special Revenue Fund for judges' retirement contributions to the Public Employees' Retirement Division.
- ▶ Eliminating the pension obligation related to the Judges' Retirement System.
- ▶ Complying with state and federal laws and regulations.

Direct comments/inquiries to:
Legislative Audit Division
Room 135, State Capitol
PO Box 201705
Helena MT 59620-1705

98-27

Help eliminate fraud, waste, and abuse in state government. Call the Fraud Hotline at 1-800-222-4446 statewide or 444-4446 in Helena.

FINANCIAL-COMPLIANCE AUDITS

Financial-compliance audits are conducted by the Legislative Audit Division to determine if an agency's financial operations are properly conducted, the financial reports are presented fairly, and the agency has complied with applicable laws and regulations. In performing the audit work, the audit staff uses standards set forth by the American Institute of Certified Public Accountants and the United States General Accounting Office. Financial-compliance audit staff members hold degrees with an emphasis in accounting. Most staff members hold Certified Public Accountant (CPA) certificates.

Government Auditing Standards, the Single Audit Act Amendments of 1996 and OMB Circular A-133 require the auditor to issue certain financial, internal control, and compliance reports. This individual agency audit report is not intended to comply with these reporting requirements and is therefore not intended for distribution to federal grantor agencies. The Legislative Audit Division issues a statewide biennial Single Audit Report which complies with the above reporting requirements. The Single Audit Report for the two fiscal years ended June 30, 1999, will be issued by March 31, 2000. Copies of the Single Audit Report, when available, can be obtained by contacting:

Single Audit Coordinator
Office of Budget and Program Planning
State Capitol
Helena MT 59620
Phone (406) 444-3616

Legislative Audit Division
Room 135, State Capitol
PO Box 201705
Helena MT 59620-1705

MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE

Senator Linda Nelson, Chair
Senator Sue Bartlett
Senator Reiny Jabs
Senator Tom Keating
Senator Ken Miller
Senator Barry "Spook" Stang

Representative Bruce Simon, Vice Chair
Representative Beverly Barnhart
Representative Ernest Bergsagel
Representative A. R. "Toni" Hagener
Representative Bob Keenan
Representative Robert Pavlovich

LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor
John W. Northey, Legal Counsel
Tori Hunthausen, IT & Operations Manager



Deputy Legislative Auditors:
Jim Pellegrini, Performance Audit
James Gillett, Financial-Compliance Audit

December 1998

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Judicial Branch for the two fiscal years ending June 30, 1998. Included in this report are four recommendations to the branch concerning reimbursing the General Fund, eliminating the pension obligation related to the Judges' Retirement System, and compliance with state and federal laws and regulations. The branch's written response to audit recommendations is included in the audit report.

We thank the Chief Justice, the Court Administrator, the Clerk of the Supreme Court, the Law Librarian, and Judicial Branch personnel for their cooperation and assistance throughout the audit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat".

Scott A. Seacat
Legislative Auditor

Digitized by the Internet Archive
in 2010 with funding from
Montana State Library

<http://www.archive.org/details/judicialbranchfi1998mont>

Legislative Audit Division

Financial-Compliance Audit

For the Two Fiscal Years Ended June 30, 1998

Judicial Branch

Members of the audit staff involved in this audit were Scott Hoversland, Wayne Kedish, Paul J. O'Loughlin, and Jennifer Solem.

Table of Contents

	Elected and Administrative Officials	Page ii
	Report Summary	Page iii
Introduction	Introduction	Page 1
	Background	Page 1
	Attached Agencies	Page 3
	Montana Medical Legal Panel	Page 3
	Montana Chiropractic Legal Panel	Page 3
Prior Audit Recommendations	Prior Audit Recommendations	Page 5
Findings and Recommendations	Compliance	Page 7
	District Court Reimbursements	Page 7
	Judges' Retirement System	Page 9
	Clerk of the Supreme Court Reporting Requirements	Page 11
	Fair Labor Standards Act	Page 12
Independent Auditor's Report & Branch Financial Schedules	Independent Auditor's Report	Page A-3
	Schedule of Changes in Fund Balances for the Fiscal Year Ended June 30, 1998	Page A-5
	Schedule of Changes in Fund Balances for the Fiscal Year Ended June 30, 1997	Page A-6
	Schedule of Total Revenues & Transfers-In for the Fiscal Year Ended June 30, 1998	Page A-7
	Schedule of Total Revenues & Transfers-In for the Fiscal Year Ended June 30, 1997	Page A-8
	Schedule of Total Expenditures & Transfers-Out for the Fiscal Year Ended June 30, 1998	Page A-9
	Schedule of Total Expenditures & Transfers-Out for the Fiscal Year Ended June 30, 1997	Page A-10
	Notes to the Financial Schedules	Page A-11
Branch Responses	Judicial Branch	Page B-3
	Clerk of the Supreme Court	Page B-5

Elected and Administrative Officials

Supreme Court			Term <u>Expires</u>
	Jean Turnage	Chief Justice	2001
	Karla Gray	Justice	1999
	William E. Hunt, Sr.	Justice	2001
	William Leaphart	Justice	2003
	James C. Nelson	Justice	2003
	Jim Regnier	Justice	2005
	Terry Trieweler	Justice	1999
Clerk of Supreme Court	Ed Smith	Clerk of Supreme Court	2001
Administrative Officials	Patrick Chenovick	Court Administrator	
	Judith Meadows	State Law Librarian	

For additional information concerning the Judicial Branch programs contact:

Patrick Chenovick, Court Administrator
Montana Supreme Court
PO Box 203002
Helena MT 59620-3002
(406)444-2621

Report Summary

Judicial Branch

We performed a financial-compliance audit of the Montana Judicial Branch (branch) for the two fiscal years ended June 30, 1998. We issued an unqualified opinion on the financial schedules which means the reader may rely on the presented financial information and the supporting data on the Statewide Budgeting and Accounting System.

This audit contains four recommendations to the branch regarding reimbursing the General Fund, improving financial reporting, and complying with state and federal laws and regulations.

The listing below serves as a means of summarizing the recommendations contained in the report, the branch's response thereto, and a reference to the supporting comments.

Recommendation #1

We recommend the branch:

- A. Transfer \$262,156 to the General Fund from the motor vehicle taxes collected pursuant to section 61-3-509, MCA, to fund the amounts appropriated by the legislature for fiscal years 1996-97 and 1997-98 to pay the expenses of the appellate defender program.
- B. Work with the Department of Administration and the Governor's Office of Budget and Program Planning to ensure the appellate defender program is funded from motor vehicle taxes collected pursuant to section 61-3-509, MCA, in fiscal year 1998-99.
- C. Properly record transfers of funds in the District Court Reimbursement program in accordance with state accounting policy. Page 9

Branch Response: Concur. See Page B-3.

Recommendation #2

We recommend the branch:

- A. Transfer \$13,746 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to the General Fund.
- B. Transfer \$20,956 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to PERD.

Report Summary

- C. Remove the \$3,074,084 net pension obligation payable recorded in the General Long-Term Debt Account Group on SBAS. Page 10

Branch Response: Concur. See Page B-4.

Recommendation #3

We recommend the branch comply with the provisions of section 46-18-604, MCA, requiring compilation of district court sentencing data or, if necessary, seek legislation to amend or repeal the statute. Page 11

Clerk of Supreme Court Response: Concur. See Page B-5.

Recommendation #4

We recommend the branch:

- A. Ensure employees record actual time worked on their time records.
- B. Pay overtime compensation or nonexempt compensatory time off to employees covered under the FLSA when their time exceeds forty hours in a workweek. Page 12

Branch Response: Concur. See Page B-4.

Introduction

Introduction

We performed a financial-compliance audit of the Judicial Branch (branch) for the two fiscal years ended June 30, 1998. The audit objectives were to:

1. Determine the branch's compliance with applicable laws and regulations.
2. Make recommendations for improvements in the branch's management and internal controls.
3. Determine if the financial schedules present fairly the results of operations of the branch for the two fiscal years ended June 30, 1998.
4. Determine the implementation status of prior audit recommendations.

This report contains four recommendations to the branch. These recommendations address reimbursement of the General Fund, elimination of the pension obligation related to the Judges' Retirement System, and compliance with state and federal laws and regulations. Other areas of concern not having a significant effect on the successful operations of the branch are not included in this report, but have been discussed with management. In accordance with section 5-13-307, MCA, we analyzed and disclosed the costs, if significant, of implementing the recommendations made in this report.

Background

The Constitution of the state of Montana vests the judicial power of the state in a Supreme Court, district courts, justice courts, and such other courts as may be provided by law. The judiciary forms the third branch of state government. The Supreme Court is the highest court of the state of Montana. The court, consisting of a chief justice and six associate justices, has appellate jurisdiction, and is a court of limited original jurisdiction. The chief justice is the head of the Supreme Court. The court administrator, appointed by the Supreme Court, serves as its administrative officer. The Supreme Court also appoints the law librarian. The librarian develops and maintains the law library collection and library services. The Supreme Court also has general supervisory control over all other courts and may make rules governing

Introduction

appellate procedure, practice and procedure for all other courts, admission to the bar, and conduct of its members. The rules of procedure are subject to disapproval by the legislature in either of the two sessions following promulgation.

Supreme Court justices and district court judges are elected to office in nonpartisan elections serving eight-year terms and six-year terms, respectively. Terms of office and the procedure for filling vacancies on the court are established in the Constitution and by statute. The legislature determines salaries for the justices and district court judges, establishes judicial districts, and provides for the number of judges in each district. Currently there are 37 district court judges in 21 judicial districts.

The Clerk of the Supreme Court is elected on a partisan ballot in a statewide election to a six-year term. The clerk keeps the court's records and files, issues writs and certificates, approves bonds, files all papers and transcripts, and performs other duties as required.

For fiscal management, the branch is divided into seven programs with a total authorized full-time equivalent (FTE) level of approximately 100 for fiscal year 1997-98. A description of each program follows:

1. The Supreme Court Operations program accounts for the costs of operation of the Supreme Court and administers special projects related to foster care and adoption placements. The program also administers court automation projects.
2. The Boards and Commissions program accounts for expenditures for the boards and commissions established either by statute or the Supreme Court. These boards and commissions handle areas such as judicial discipline, rules, admission to the bar, and various other substantive issues to improve and monitor the administration of justice.
3. The Law Library program accounts for the operation of the State Law Library. The library is maintained for use by members and staff of the Supreme Court and the legislature, state officers and employees, members of the bar, and the general public.

4. The District Court Operations program accounts for the payment of salaries, travel, and training expenses for district court judges.
5. The Water Courts Supervision program accounts for the expenditures of the water courts. Montana's Water Courts were created to adjudicate claims of existing water rights in Montana and supervise the distribution of water within the four water divisions of the state.
6. The Clerk of Court program accounts for the costs of operation of the Clerk of the Supreme Court.
7. The District Court Reimbursement program reimburses counties for certain adult criminal prosecution expenses. Costs of this program are paid from taxes assessed on vehicles. The 1997 Legislature moved the deposit of these taxes from the General Fund to the Special Revenue Fund beginning in fiscal year 1997-98. As a result, costs of the program are also recorded in the Special Revenue Fund beginning in fiscal year 1997-98.

Attached Agencies

There are two agencies attached to the Supreme Court. The Montana Medical Legal Panel and the Montana Chiropractic Legal Panel.

Montana Medical Legal Panel

The Montana Medical Legal Panel was established by the Montana Medical Legal Panel Act, as authorized in Title 27, chapter 6, MCA. The panel is attached to the Montana Supreme Court for administrative purposes only.

Montana Chiropractic Legal Panel

The Montana Chiropractic Legal Panel was established as a state agency in January 1990 by Chapter 262, Laws of 1989. Its' duties are set forth in Title 27, chapter 12, MCA. The panel is attached to the Montana Supreme Court for administrative purposes only.

Each panel reviews malpractice claims made against medical or chiropractic physicians. The panels must hear and make a decision on a claim before the claim can be filed in court. The panels determine if there is substantial evidence the stated act or omission occurred, whether the act or omission constitutes malpractice, and if there is reasonable medical probability of injury because of the act or omission.

Each panel is audited separately from the Judicial Branch. Copies of the panels' audit reports are available through the Legislative Audit Division.

Prior Audit Recommendations

Prior Audit Recommendations

Our prior audit report for the two fiscal years ended June 30, 1996, contained six recommendations to the branch. The branch implemented all six recommendations.

One recommendation dealt with working with the Public Employees' Retirement Division (PERD) to seek legislation to ensure sufficient revenue sources for funding the Judges' Retirement System. PERD submitted legislation to the 1997 Legislature requesting a change in funding of the Judges' Retirement System. The state contribution from the General Fund was increased and district court fees which were previously used to fund a portion of the contributions, are now deposited in the General Fund. A separate report (98-8) issued by our office on the PERD includes information regarding the actuarial soundness of the Judges' Retirement System.

Findings and Recommendations

Compliance

The Judicial Branch of state government is provided for in the Montana Constitution. We tested the branch's compliance with selected state and federal laws and regulations relevant to the branch. The following four report sections discuss instances where the branch could improve compliance with state and federal laws and regulations.

District Court Reimbursements

The branch administers the District Court Reimbursement program. The program is funded by taxes assessed and collected on motor vehicles pursuant to section 61-3-509, MCA. During fiscal year 1996-97, the taxes were deposited in the General Fund. The 1997 Legislature amended the law to deposit the taxes in the state Special Revenue Fund effective for fiscal year 1997-98. Section 3-5-901, MCA, lists the order of distribution of the motor vehicle taxes collected as follows:

1. The amount appropriated by the legislature to fund the expenses of the appellate defender program located at the Department of Administration (D of A).
2. Funds are then available to reimburse certain district court expenses in criminal cases, and the branch's costs of administering the district court reimbursement program.
3. If there are funds available after the branch reimburses district court expenses, then up to \$500,000 of the excess amount must be used for youth court and probation foster care placements. The Department of Corrections must certify to the Supreme Court that appropriations for youth court and probation foster care placements will be inadequate to fund these costs.
4. Any remaining funds available are returned to the counties in the form of grants as directed by section 7-6-2352, MCA. Grants are awarded to counties for district court expenses in excess of revenue collected. If there are not any excess funds available after the branch reimburses district court expenses, the respective county is responsible for payment of the balance.

At fiscal year-end 1995-96, the Governor's Office of Budget and Program Planning (OBPP) reduced the branch's statutory appropriation related to the use of the motor vehicle taxes by the amount appropriated for the appellate defender's program. The appropriation was reduced because the appellate defender had a separate appropriation to spend the

Findings and Recommendations

monies out of the General Fund. During fiscal years 1996-97 and 1997-98, the branch did not reduce the statutory appropriation by the amount of funds appropriated to the appellate defender's program. Branch personnel noted they did not make allowances for the appellate defenders' appropriations because OBPP made the adjustment to the fiscal year 1995-96 statutory appropriation. As a result, the entire amount of revenue collected pursuant to section 61-3-509, MCA, was expended and the amounts appropriated to fund the expenses of the appellate defender program (\$104,129 in fiscal year 1996-97 and \$158,027 in fiscal year 1997-98) were paid with other General Fund monies.

As previously noted, the motor vehicle taxes were deposited in the state Special Revenue Fund beginning in fiscal year 1997-98. The appellate defender program, however, was still appropriated out of the General Fund. Although the statutes do not specifically provide for a transfer of motor vehicle taxes to the General Fund, legislative intent is the appellate defender is the first priority use of these motor vehicle taxes. In order to fund the appellate defender program, a transfer from the Special Revenue Fund to the General Fund is required. Inclusion of the appellate defender program costs in a Special Revenue Fund appropriation, directly from the motor vehicle taxes, is an alternative that D of A personnel are proposing in the 2001 budget.

In fiscal year 1996-97, in accordance with section 3-5-901, MCA, the branch transferred \$500,000 of the motor vehicle taxes to the Department of Corrections after the department certified the appropriations for youth court and probation foster care placements were inadequate to fund the costs. This transfer was recorded on the Statewide Budgeting and Accounting System (SBAS) as "Grants from State Sources." State accounting policy requires amounts given to another state agency to be recorded as an "Operating Transfers-Out." Branch personnel noted the transfer was included at fiscal year-end 1996-97 as a portion of the expenditure accrual for grants to district courts. Branch personnel noted the \$500,000 should have been classified as "Operating Transfers-Out."

Findings and Recommendations

Recommendation #1

We recommend the branch:

- A. Transfer \$262,156 to the General Fund from the motor vehicles taxes collected pursuant to section 61-3-509, MCA, to fund the amounts appropriated by the legislature for fiscal years 1996-97 and 1997-98 to pay the expenses of the appellate defender program.
- B. Work with the Department of Administration and the Governor's Office of Budget and Program Planning to ensure the appellate defender program is funded from motor vehicle taxes collected pursuant to section 61-3-509, MCA, in fiscal year 1998-99.
- C. Properly record transfers of funds in the District Court Reimbursement program in accordance with state accounting policy.

Judges' Retirement System

In our previous audit of the Judicial Branch, we recommended the branch work with the Public Employees' Retirement Division (PERD) to seek legislation to allocate additional revenue to ensure sufficient funding of the Judges' Retirement System (JRS). The 1997 Legislature increased the state contribution paid from the General Fund to the JRS from 6 percent to 25.81 percent of the compensation of each member of the JRS. This increase was effective July 1, 1997. Prior to July 1, 1997, the branch was required to remit all district court fees collected, up to 34.71 percent of the salaries of district court judges and supreme court justices, to the JRS. In our previous audit, we had noted the district court fees collected were not sufficient to pay the percentages required by law.

The first pay period in fiscal year 1997-98 covered portions of both fiscal years 1996-97 (6 days) and 1997-98 (4 days). Branch personnel noted they had collected funds in the state Special Revenue Fund to pay for the fiscal year 1996-97 portion of contributions. Personnel at PERD noted the entire contribution for the first pay period ending in fiscal year 1997-98 was paid from the General Fund. As a result, the branch had

Findings and Recommendations

\$34,702 of cash remaining in the state Special Revenue Fund account that should have been used to pay the contributions. As a result, \$20,956 of this cash balance should be transferred to the PERD to pay for the portion of the June 1997 contributions from district court fees and previous shortfalls in contributions. In addition, \$13,746 should be transferred to the General Fund to reimburse for contributions incorrectly paid with General Fund monies in fiscal year 1996-97.

In addition, the branch had a net pension obligation liability of \$3,074,084 recorded in the General Long Term Debt Account Group on SBAS at fiscal year-end 1997-98. This liability should be eliminated based on the new funding method and estimates PERD's actuary calculated when analyzing the new legislation. Branch personnel stated they contacted PERD during fiscal year-end 1997-98 to ask about the net pension obligation but did not receive a response. As a result, the net pension obligation liability recorded in the General Long Term Debt Account Group on SBAS is overstated by \$3,074,084.

Recommendation #2

We recommend the branch:

- A. Transfer \$13,746 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to the General Fund.**
- B. Transfer \$20,956 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to PERD.**
- C. Remove the \$3,074,084 net pension obligation payable recorded in the General Long-Term Debt Account Group on SBAS.**

Findings and Recommendations

Clerk of the Supreme Court Reporting Requirements

Section 46-18-604 requires clerks of district courts to submit ten items of information on each defendant sentenced by a district court judge to the Clerk of the Supreme Court (clerk) on a form to be provided by the clerk. This form must be reviewed and signed by the sentencing judge before being submitted. The statute also requires the clerk to compile the information and distribute it to all district court clerks and any interested party on April 1 of each year.

The clerk noted the law was enacted in 1981, and in 1982 the branch began collecting sentencing data. This work was performed by the court administrator's office because of workload issues at the clerk's office. According to the clerk and the court administrator, in 1991 the collection of sentencing data ceased because of staffing constraints in the court administrator's office.

The clerk provided documentation that his office requested additional staff and funding from the 1995 Legislature to comply with the law. No additional staff or funding was received. Both the clerk and court administrator noted they have not had requests for this information. The chief justice, at the time the law was enacted, noted the information called for would furnish an incomplete picture and mislead the public.

The clerk, in conjunction with the justices of the Supreme Court, should review the statutory requirements of section 46-18-604, MCA, and consider the costs of gathering the information and the need for the information. Based on this review, a decision should be made to comply with the law or seek legislation to amend or repeal the law.

Recommendation #3

We recommend the branch comply with the provisions of section 46-18-604, MCA, requiring compilation of district court sentencing data or, if necessary, seek legislation to amend or repeal the statute.

Findings and Recommendations

Fair Labor Standards Act

Employees governed by the federal Fair Labor Standards Act (FLSA) earn overtime compensation or nonexempt compensatory time at the rate of one and one-half hours for all hours worked in excess of the applicable maximum hours standard. State policy describes overtime as time worked by a nonexempt employee in excess of 40 hours in a workweek.

The law library is open from 8 A.M. to 5 P.M. Monday through Friday and from 10 A.M. to 2 P.M. on Saturday. We found employees who work on Saturday do not record time worked on Saturday on their time records. Instead, an employee working on Saturday will record eight hours on another day in the pay period when in actuality they only worked four hours on that day. In addition, if an employee has forty hours in the workweek by Friday and is required to work on Saturday, the time is not recorded on the time sheet for that workweek. Rather, eight hours are recorded on another day in the next workweek when only four hours are worked on that day.

The branch's overtime policy calls for compensatory time off to be given to employees under the FLSA when they have worked in excess of forty hours in a workweek. Law library management stated they could not afford to pay overtime or compensatory time due to budget constraints. However, time records should reflect the actual time employees worked and overtime compensation or nonexempt compensatory time must be provided in compliance with the FLSA. The branch should ensure that all employees record the actual hours they work on their time record and pay overtime compensation or nonexempt compensatory time when earned.

Recommendation #4

We recommend the branch:

- A. Ensure employees record actual time worked on their time records.**
- B. Provide overtime compensation or nonexempt compensatory time off to employees covered under the FLSA when their time exceeds forty hours in a workweek.**

Independent Auditor's Report & Branch Financial Schedules

LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor
John W. Northey, Legal Counsel
Tori Hunthausen, IT & Operations Manager



Deputy Legislative Auditors:
Jim Pellegrini, Performance Audit
James Gillett, Financial-Compliance Audit

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Judicial Branch for each of the two fiscal years ended June 30, 1998. The information contained in these financial schedules is the responsibility of Judicial Branch management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosure in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the financial schedules are presented on a comprehensive basis of accounting other than generally accepted accounting principles. The schedules are not intended to be a complete presentation and disclosure of the Judicial Branch's assets, liabilities, and cash flows.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances of the Judicial Branch for the two fiscal years ended June 30, 1997 and 1998, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

A handwritten signature in black ink that reads "James Gillett".

James Gillett, CPA
Deputy Legislative Auditor

September 18, 1998

JUDICIAL BRANCH
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED JUNE 30, 1998

	General Fund	Special Revenue Fund	Enterprise Fund
FUND BALANCE: July 1, 1997	\$ (2,797,433) ²	\$ 276,135	\$ 0
ADDITIONS			
Budgeted Revenues & Transfers-In	798,180 ¹	6,482,983 ¹	3,716
Nonbudgeted Revenues & Transfers-In	15,333	514,615	
Prior Year Revenues & Transfers-In Adjustments	(8,315)	(86,282)	
Cash Transfers In (Out)	8,640,093	597,140	
Total Additions	9,445,291	7,508,456	3,716
REDUCTIONS			
Budgeted Expenditures & Transfers-Out	6,957,079 ¹	7,619,096 ¹	3,716
Nonbudgeted Expenditures & Transfers-Out		14,615	
Prior Year Expenditures & Transfers-Out Adjustments	(13,234)	(18,070)	
Total Reductions	6,943,845	7,615,641	3,716
FUND BALANCE: June 30, 1998	\$ (295,987) ²	\$ 168,950	\$ 0

1 - See note 1 on A-11.

2 - See note 2 on A-12.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-11.

JUDICIAL BRANCH
SCHEDULE OF CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED JUNE 30, 1997

FUND BALANCE: July 1, 1996	General Fund	Special Revenue Fund
	<u>\$ (2,790,736)</u>	<u>\$ 82,070</u>
ADDITIONS		
Budgeted Revenues & Transfers-In	6,048,670	1,672,456
Nonbudgeted Revenues & Transfers-In	22,131	
Prior Year Revenues & Transfers-In Adjustments	23,570	(28,275)
Cash Transfers In (Out)	5,323,777	551,654
Total Additions	<u>11,418,148</u>	<u>2,195,835</u>
REDUCTIONS		
Budgeted Expenditures & Transfers-Out	11,439,002	1,985,375
Prior Year Expenditures & Transfers-Out Adjustments	(14,157)	16,395
Total Reductions	<u>11,424,845</u>	<u>2,001,770</u>
FUND BALANCE: June 30, 1997	<u>\$ (2,797,433)</u>	<u>\$ 276,135</u>

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-11.

JUDICIAL BRANCH
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 1998

	General Fund	Special Revenue Fund	Enterprise Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS				
Licenses and Permits	\$ 106,940	\$ 5,474,724		\$ 5,581,664
Charges for Services	692,362	839,364		1,531,726
Rentals, Leases and Royalties	5,896			5,896
Miscellaneous		14,616	3,716	18,332
Other Financing Sources		500,000		500,000
Federal		82,612		82,612
Total Revenues & Transfers-In	805,198	6,911,316	3,716	7,720,230
Less: Nonbudgeted Revenues & Transfers-In	15,333	514,615		529,948
Prior Year Revenues & Transfers-In Adjustments	(8,315)	(86,282)		(94,597)
Actual Budgeted Revenues & Transfers-In	798,180	6,482,983	3,716	7,284,879
Estimated Revenues & Transfers-In	275,000	5,887,500	6,000	6,168,500
Budgeted Revenues & Transfers-In Over (Under) Estimated	523,180	595,483	(2,284)	1,116,379
	\$	\$	\$	\$
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS				
Licenses and Permits	\$ (3,325)	\$ 774,724		\$ 771,399
Charges for Services	526,505	(85,070)		441,435
Rentals, Leases and Royalties				0
Miscellaneous		(30,000)	(2,284)	(32,284)
Other Financing Sources				0
Federal		(64,171)		(64,171)
Budgeted Revenues & Transfers-In Over (under) Estimated	523,180	595,483	(2,284)	1,116,379
	\$	\$	\$	\$

1 - See note 1 on A-11.

This schedule is prepared from the Statewide Budgeting and Accounting System. Additional information is provided in the notes to the financial schedules beginning on page A-11

JUDICIAL BRANCH
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 1997

	General Fund	Special Revenue Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS			
Licenses and Permits	\$ 5,384,695		\$ 5,384,695
Charges for Services	695,376	\$ 1,493,387	2,188,763
Rentals, Leases and Royalties	14,300		14,300
Federal		150,794	150,794
Total Revenues & Transfers-In	6,094,371	1,644,181	7,738,552
Less: Nonbudgeted Revenues & Transfers-In	22,131		22,131
Prior Year Revenues & Transfers-In Adjustments	23,570	(28,275)	(4,705)
Actual Budgeted Revenues & Transfers-In	6,048,670	1,672,456	7,721,126
Estimated Revenues & Transfers-In	5,200,000	1,745,500	6,945,500
Budgeted Revenues & Transfers-In Over (Under) Estimated	\$ 848,670	\$ (73,044)	\$ 775,626
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS			
Licenses and Permits	\$ 776,557		\$ 776,557
Charges for Services	72,113	\$ (58,914)	13,199
Rentals, Leases and Royalties	0		0
Federal		(14,130)	(14,130)
Budgeted Revenues & Transfers-In Over (under) Estimated	\$ 848,670	\$ (73,044)	\$ 775,626

This schedule is prepared from the Statewide Budgeting and Accounting System.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

JUDICIAL BRANCH
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 1998

PROGRAM EXPENDITURES & TRANSFERS-OUT BY OBJECT

	Supreme Court Operations	Boards And Commissions	Law Library	District Court Operations	Water Courts Supervision	Clerk Of Court	District Court Reimbursement	Total
Personal Services								
Salaries	\$ 1,650,982	\$ 53,396	\$ 219,655	\$ 2,638,514	\$ 362,387	\$ 157,756	\$ 38,705	\$ 5,121,395
Hourly Wages	1,770							1,770
Other Compensation				22,062				22,062
Employee Benefits	440,640	14,777	57,468	990,837	102,291	38,659	9,731	1,654,403
Total	2,093,392	68,173	277,123	3,651,413	464,678	196,415	48,436	6,799,630
Operating Expenses								
Other Services	188,078	92,430	8,704	20,027	1,336	4,857	123	315,555
Supplies & Materials	174,646	12,406	34,034	50,045	12,660	7,303	1,903	292,997
Communications	42,339	12,788	10,366	1,610	10,366	13,224	1,059	108,473
Travel	129,065	49,442	3,693	135,812	7,363	4,843		330,218
Rent	237,990	3,815		771	42,725	3,767		289,068
Repair & Maintenance	20,389	32	13,271	5,141	6,004	181		45,018
Other Expenses	70,130	(8,769)	15,778	28,428	4,069	1,112	70	108,818
Total	862,637	162,144	85,846	239,834	101,244	35,287	3,155	1,490,147
Equipment & Intangible Assets								
Equipment			243,386			6,191		249,577
Intangible Assets	(3,500)						(3,500)	(3,500)
Total			243,386			6,191		246,077
Grants								
From State Sources	590,494							598,838
Total	590,494							598,838
Debt Service								
Installment Purchases								
Total								
Total Program Expenditures & Transfers-Out	\$ 3,543,023	\$ 230,317	\$ 634,865	\$ 3,891,247	\$ 565,922	\$ 237,893	\$ 5,459,935	\$ 14,563,202
PROGRAM EXPENDITURES & TRANSFERS-OUT BY FUND								
General Fund	\$ 2,436,142	\$ 229,504	\$ 631,149	\$ 3,409,157	\$ 565,922	\$ 237,893	\$ 0	\$ 6,943,845
Special Revenue Fund	1,106,881	813		482,090			5,459,935	7,615,641
Enterprise Fund			3,716					3,716
Total Program Expenditures & Transfers-Out	3,543,023	230,317	634,865	3,891,247	565,922	237,893	5,459,935	14,563,202
Less Nonbudgeted Expenditures & Transfers-Out	14,614							14,614
Prior Year Expenditures & Transfers-Out Adjustments	(2,752)	(12,234)	(1,199)	(17,721)	2,602			(31,304)
Actual Budgeted Expenditures & Transfers-Out	3,531,161	242,551	636,064	3,908,968	563,320	237,893	5,459,935	14,579,892
Budget Authority	3,638,044	314,172	638,942	4,045,810	605,273	238,313	5,459,935	14,940,489
Unspent Budget Authority	\$ 106,883	\$ 71,621	\$ 2,878	\$ 136,842	\$ 41,953	\$ 420	\$ 0	\$ 360,597
UNSPENT BUDGET AUTHORITY BY FUND								
General Fund	\$ 62,135	\$ 30,565	\$ 594	\$ 136,842		\$ 420	\$ 0	\$ 230,556
Special Revenue Fund	44,748	41,056			\$ 41,953			127,757
Enterprise Fund			2,284					2,284
Unspent Budget Authority	\$ 106,883	\$ 71,621	\$ 2,878	\$ 136,842	\$ 41,953	\$ 420	\$ 0	\$ 360,597

This schedule is prepared from the Statewide Budgeting and Accounting System
Additional information is provided in the notes to the financial schedules beginning on page A-11

JUDICIAL BRANCH
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 1997

PROGRAM EXPENDITURES & TRANSFERS-OUT BY OBJECT								
	Supreme Court Operations	Boards And Commissions	Law Library	District Court Operations	Water Courts Supervision	Clerk Of Court	District Court Reimbursement	Total
Personal Services								
Salaries	\$ 1,506,056	\$ 44,604	\$ 182,323	\$ 2,477,714	\$ 362,014	\$ 130,276	\$ 36,910	\$ 4,739,897
Hourly Wages	2,542							2,542
Other Compensation	321,712	12,303	47,304	23,567				23,567
Employee Benefits	1,830,310	56,907	229,627	1,014,472	111,147	33,995	9,124	1,550,057
Total				3,515,753	473,161	164,271	46,034	6,316,063
Operating Expenses								
Other Services	195,268	63,111	1,718	1,435	1,434	1,422	163	264,551
Supplies & Materials	44,442	19,825	11,608	8,052	8,851	3,906	559	97,243
Communications	40,363	11,600	10,569	1,720	30,406	16,143	1,289	112,090
Travel	89,511	40,278	4,527	118,266	8,905	2,910	223	264,620
Rent	230,741	3,210	7,660	7,660	38,503	3,162		283,276
Repair & Maintenance	20,794	75	9,768	2,922	3,330	120		37,009
Other Expenses	80,047	10,267	12,135	25,187	2,719	833	70	131,258
Total	701,166	148,366	50,325	165,242	94,148	28,496	2,304	1,190,047
Equipment & Intangible Assets								
Equipment	34,999		253,705			5,541		294,245
Intangible Assets	6,241		402					6,643
Total	41,240		254,107			5,541		300,888
Grants								
From State Sources	366,328							366,328
Total	366,328							366,328
Debt Service								
Installment Purchases								
Total			28,510					28,510
Total Program Expenditures & Transfers-Out	\$ 2,939,044	\$ 205,273	\$ 562,569	\$ 3,680,995	\$ 567,309	\$ 198,308	\$ 5,273,117	\$ 13,426,615
PROGRAM EXPENDITURES & TRANSFERS-OUT BY FUND								
General Fund	\$ 2,040,901	\$ 205,273	\$ 562,569	\$ 3,144,677		\$ 198,308	\$ 5,273,117	\$ 11,424,845
Special Revenue Fund	898,143			536,318	\$			2,001,770
Total Program Expenditures & Transfers-Out	2,939,044	205,273	562,569	3,680,995		198,308	5,273,117	13,426,615
Less: Prior Year Expenditures & Transfers-Out Adjustments	13,030	(574)	(220)	(10,330)	50	282	2,238	2,238
Actual Budgeted Expenditures & Transfers-Out	2,926,014	205,847	562,789	3,691,325	567,259	198,026	5,273,117	13,424,845
Budget Authority	3,243,217	206,709	563,005	3,735,196	569,860	198,048	5,273,117	13,789,152
Unspent Budget Authority	317,203	862	216	43,871	2,601	22	0	364,775
UNSPENT BUDGET AUTHORITY BY FUND								
General Fund	\$ 8,113	\$ 862	\$ 216	\$ 189		\$ 22	\$ 0	\$ 9,402
Special Revenue Fund	309,090			43,682	2,601			355,373
Unspent Budget Authority	317,203	862	216	43,871	2,601	22	0	364,775

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 1998

1. **Summary of Significant Accounting Policies**

Basis of Accounting

The Judicial Branch uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental Funds. In applying the modified accrual basis, the branch records:

Revenues when it receives cash or when receipts are measurable and available to pay current period liabilities.

Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the branch to record the cost of employees' annual leave and sick leave when used or paid.

The branch uses accrual basis accounting for the Proprietary Funds. Under the accrual basis, as defined by state accounting policy, the branch records revenues in the accounting period earned when measurable and records expenses in the period incurred when measurable.

Expenditures and expenses may include entire budgeted service contracts even though the branch receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the Statewide Budgeting and Accounting System without adjustment.

Accounts are organized in funds according to state law. The branch uses the following funds:

Governmental Funds

General Fund - to account for all financial resources except those required to be accounted for in another fund. The General Fund is a statewide fund. Cash transfers are necessary to return the cash balance for the agency to zero at fiscal year end.

Special Revenue Fund - to account for proceeds of specific revenue sources legally restricted to expenditures for specific purposes. The branch's Special Revenue Funds include the water court judges'

Notes to the Financial Schedules

retirement, renewable resource grants, court automation, child support, and federal grants. Cash Transfers account for activity funding the Water Court program from the renewable resources account shared with the Department of Natural Resources and Conservation. Cash transfers are necessary to return the cash balance to zero at fiscal year end.

Proprietary Funds

Enterprise Fund - to account for operations (a) financed and operated in a manner similar to private business enterprises, where the Legislature intends that the branch finance or recover costs primarily through user charges; or (b) where the Legislature has decided that periodic determination of revenues earned, expenses incurred, or net income is appropriate. The branch's Enterprise Fund accounts for the law library searches/research.

Funding Changes

Beginning in fiscal year 1997-98, legislative changes moved the funding for the Judges' Retirement System from the Special Revenue Fund to the General Fund. As a result, charges for services revenue decreased in fiscal year 1997-98 in the Special Revenue Fund. The water court judges' retirement remains funded through the Renewable Resources Account in the Special Revenue Fund.

Beginning in fiscal year 1997-98, legislative changes moved funding sources for the District Court Criminal Reimbursement program from the General Fund to the Special Revenue Fund.

2. General Fund Balance

The negative fund balance in the General Fund does not indicate overspent appropriation authority. Each agency does not have a separate General Fund since its only authority is to pay obligations from the statewide General Fund within its appropriation limits. Each agency records cash or other assets from the statewide fund when it pays General Fund obligations. The branch's outstanding liabilities exceed the assets the branch has placed in the fund, resulting in negative ending General Fund balances for each of the two fiscal years ended June 30, 1997 and June 30, 1998.

Branch Response

The Supreme Court of Montana
Office of the Court Administrator

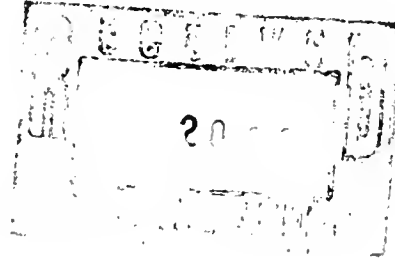
PATRICK A. CHENOVICK
Court Administrator



Justice Building Room 315
215 North Sanders
P.O. Box 203002
Helena, Montana 59620-3002
Telephone (406) 444-2621
FAX (406) 444-3274

November 19, 1998

Mr. Scott Seacat, Legislative Auditor
Legislative Audit Division
Room 135, State Capitol Building
Helena, Montana 59620



Dear Mr. Seacat:

This is our response to the audit of the Judicial Branch for the two fiscal years ended June 30, 1998. The audit team was very knowledgeable and we appreciate the professional manner in which the audit was conducted. I have highlighted and provided a response to each of your recommendations.

Recommendation #1

We recommend the branch:

- A. Transfer \$262,156 to the General Fund from the motor vehicle taxes collected pursuant to section 61-3-509, MCA, to fund the amounts appropriated by the legislature for fiscal years 1996-97 and 1997-98 to pay the expenses of the appellate defender program.
- B. Work with the Department of Administration and the Governor's Office of Budget and Program Planning to ensure the appellate defender program is funded from motor vehicle taxes collected pursuant to section 61-3-509, MCA, in fiscal year 1998-99.
- C. Properly record transfers of funds in the District Court Reimbursement program in accordance with state accounting policy.

RESPONSE -- WE CONCUR

Branch personnel transferred funds to Department of Administration to pay the expenses of the appellate defender program for fiscal years 1997 and 1998. For fiscal 1999, branch personnel will transfer funds to Department of Administration on a quarterly basis to fund the appellate defender program. The transfer for the first quarter of fiscal 1999 has already been made.

Recommendation #2

We recommend the branch:

- A. Transfer \$13,746 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to the General Fund.**
- B. Transfer \$20,956 of the cash balance in the state Special Revenue Fund account for judges' retirement contributions to PERD.**
- C. Remove the \$3,074,084 net pension obligation payable recorded in the General Long-Term Debt Account Group on SBAS.**

RESPONSE -- WE CONCUR

Branch personnel are currently initiating the appropriate accounting entries to make the necessary transfers and adjustments.

Recommendation #3

We recommend the branch comply with the provisions of section 46-18-604, MCA, requiring compilation of district court sentencing data or, if necessary, seek legislation to amend or repeal the statute.

The Clerk of the Supreme Court is an elected official and will respond to this recommendation.

Recommendation #4

We recommend the branch:

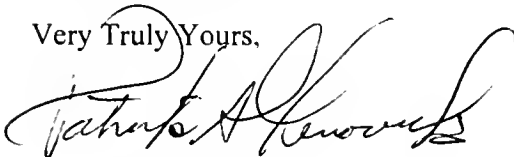
- A. Ensure employees record actual time worked on their time records.**
- B. Provide overtime compensation or nonexempt compensatory time off to employees covered under the FLSA when their time exceeds forty hours in a workweek.**

RESPONSE -- WE CONCUR

All time worked is now recorded by staff on time sheets for the day of the actual work. If time worked exceeds forty hours within one work week, nonexempt compensatory time off will be given.

We are available to answer any questions or provide any further information that you or the Legislative Audit Committee may require.

Very Truly Yours,



Patrick A. Chenovick
Court Administrator



ED SMITH
CLERK

State of Montana
Office of Clerk of the Supreme Court
Helena 59620
406-444-3858

NOV 20 1998

November 20, 1998

Scott Seacat
Legislative Auditor
P. O. Box 201705
Helena, MT 59620-1705

Dear Mr. Seacat:

Your office has just completed the Legislative Audit for the Judicial Branch. In response to recommendation number three, I request the Legislative Audit Committee seek repeal of Section 46-18-604 Montana Code Annotated.

At the direction of the late Chief Justice Frank Haswell, this poorly drafted statute was never truly implemented by the court system in Montana. It is now and has always been, an unfunded mandate that the Legislature was informed of in 1995. Additionally there have not been requests for this report, and thus the statute should be repealed.

I would be happy to work with you and the Legislative Audit Committee to seek the repeal.

Thank you for your review of the Judicial Branch of government.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Smith", written over a horizontal line.

ED SMITH
Clerk of the Supreme Court

